IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 8437 of 2005

Between:

G.V.B.S. Murthy, S/o. Raja Rao,
Jangareddygudem, West Godavari District.

..... PETITIONER

AND

1 State of Andhra Pradesh Represented by its Principal Secretary to Government, Home Department,
Secretariat, Hyderabad.
2 The Director General of Police, Government of Andhra Pradesh, Hyderabad.
3 The Deputy Inspector General of Police, Eluru Range, Eluru, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more in the nature of Writ of Mandamus declaring the action of the respondents in not considering the case of the petitioner for promotion to the post of Deputy Superintendent of Police on the ground of pendency of departmental proceeding issued in Proceedings C.No.484/GE/II/A/2-3/1, dated

18.09.2003 issued by the 2nd respondent as being arbitrary, illegal and constitutional violating Article 14, 16 and 21 of the constitution of India, and set aside the same including the orders of the Hon'ble Tribunal in O.A. 6355/2004 dated 23-11-2004, and issue consequential directions, directing the respondents to forthwith consider and promote the petitioner as Deputy Superintendent of Police without reference to the proceedings C.No. 484/GE-II/A/2-3/1 dated 18-9-2003 issued by the 2nd respondent, before promoting any juniors to the petitioner, if necessary declaring that the petitioner is eligible for getting promotion as Deputy Superintendent of Police, pending disposal of the Writ Petition and to pass such other order or orders as deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.V.KRISHNAIAH

Counsel for the Respondents: GP FOR SERVICES-I

The Court at the admission stage made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed assailing the order, dated 23.11.2004, passed by the A.P. Administrative Tribunal, Hyderabad in O.A.No.6355 of 2004.

2. The petitioner is the applicant before the Tribunal. He filed O.A. seeking a direction to consider his case for promotion as Deputy Superintendent of Police without reference to pendency of departmental proceedings issued in C.No.484/GE-II/A/2-3/1, dated 18.09.2003, issued by the 2nd respondent. The petitioner while working as Inspector of Police is eligible for promotion to the post of Deputy Superintendent of Police. However, a charge memo, dated 18.09.2003, was issued to him alleging that his wife was one of the partners in Bhagyalakshmi Finance,

Eluru and invested some amounts in the name of his family members and relatives and failed to either inform the Government or take prior permission for the same. However, the enquiry has not yet been conducted and in the meanwhile the petitioner was not considered for promotion to the post of Deputy Superintendent of Police. Aggrieved by the inaction of the respondents, he filed the O.A.

3. The Tribunal disposed of the O.A. directing the respondents to place the case of the applicant before the DPC for their consideration and for necessary recommendation as per rules. The Tribunal further observed that the applicant's case does not come under G.O.Ms.No.257, dated 10.06.1999, as two years period not elapsed. Aggrieved by the said order, the present Writ Petition has been filed.

4. Learned counsel for the petitioner submits that the findings of the Tribunal that the case of the petitioner would not fall under G.O.Ms.No.257, dated 10.06.1999, is absolutely misconceived and that the petitioner is entitled to promotion for the post of Deputy Superintendent of Police as the incident is alleged to have taken place almost more than 5 years prior to the date of issuance of the charge memo.

5. Under those circumstances, we are not inclined to consider the issue on merits of the case and suffice to say that the disciplinary proceedings have to be decided by one way or the other and direct the respondents to complete the disciplinary enquiry, if not already completed, within a period of two months from the date of receipt of a copy of this order.

6. However, if the disciplinary proceedings are not completed as directed above, the case of the petitioner shall be considered for promotion without reference to the pendency of charge memo, dated 18.09.2003.

7. With the directions indicated above, the Writ Petition is accordingly disposed of. No costs.

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G. BIKSHAPATHY, J

Date: 26.04.2005

P.S. NARAYANA, J

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To

1 The Principal Secretary to Government, State of Andhra Pradesh, Home Department, Secretariat, Hyderabad.
2 The Director General of Police, Government of Andhra Pradesh, Hyderabad.
3 The Deputy Inspector General of Police, Eluru Range, Eluru, West Godavari District.

4 2 CCs to the GP for Services-I, High Court buildings, Hyderabad (OUT).

5 2 CD copies

6 The Registrar, A.P. Administrative Tribunal, Hyderabad.